

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

THOMAS ALLEN PHILLIPS, *et al.*,

Plaintiffs,

v.

Case No. 2:19-cv-2402-TC-KGG

BOILERMAKER-BLACKSMITH
NATIONAL PENSION TRUST, *et al.*,

Defendants.

**ORDER ON DEFENDANTS’ MOTION FOR LEAVE TO FILE EXHIBITS B AND C TO
BRIEF IN OPPOSITION TO PLAINTIFFS’ MOTION TO COMPEL DOCUMENTS
RESPONSIVE TO PLAINTIFFS’ SIXTH SET OF REQUESTS FOR PRODUCTION
UNDER SEAL**

The Court, having considered Defendants’ Motion for Leave to File Exhibits B and C to their Brief in Opposition to Plaintiffs’ Motion to Compel Documents Responsive to Plaintiffs’ Sixth Set of Requests for Production Under Seal (Doc. 232), **GRANTS** the Motion.

The decision whether to allow judicial records or case related information to be filed under seal lies in the sound discretion of the court. *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 599 (1978). A party seeking to file materials under seal must show an interest in restricting access that heavily outweighs the public’s well-established right to judicial records. *See Mann v. Boatright*, 477 F.3d 1140, 1149 (10th Cir. 2007). Protection of privileged information is an interest that may warrant the filing of a document under seal. *See United States v. Dillard*, 795 F.3d 1191, 1206 (10th Cir. 2015) (recognizing that the public has an interest not only in access to court records but also in “in maintaining robust protections for privileged communications”). Here, Defendants move the Court for permission to “file certain emails that contain information that is protected by the attorney-client privilege, but was produced to Plaintiffs pursuant to the fiduciary exception.” (Doc. 232, at 2). The Court, in this case, has previously held “that

documents subject to the attorney-client privilege, but produced pursuant to the fiduciary exception, may be filed under seal.” (Doc. 164). As such, the Court grants permission to file the documents under seal.

IT IS THEREFORE ORDERED THAT Defendants’ Motion for Leave to file Exhibits B and C to Brief in Opposition to Plaintiffs’ Motion to Compel Documents Responsive to Plaintiffs’ Sixth Set of Requests for Production Under Seal (Doc. 232) is **GRANTED**.

IT IS FURTHER ORDERED THAT Defendants may file Exhibits B and C to their Brief in Opposition to Plaintiffs’ Motion to Compel Documents Responsive to Plaintiffs’ Sixth Set of Requests for Production under seal.

IT IS FURTHER ORDERED THAT the Clerk’s office grant access to Exhibits B and C to all attorneys who have appeared in this case.

IT IS SO ORDERED.

Dated this 9th day of December 2021, at Wichita, Kansas.

/s KENNETH G. GALE
Kenneth G. Gale
United States Magistrate Judge